

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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W.F.L.,

Plaintiff,

COMPLAINT

-against-

ROCKEFELLER UNIVERSITY,

Index No. _____

Defendant.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, W. F. L., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

Introduction

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted by Dr. Reginald Archibald ("Dr. Archibald"), former professor and senior physician at Rockefeller University and its hospital, Rockefeller University Hospital.

Parties, Jurisdiction and Venue

1. Plaintiff W. F. L. is a citizen and resident of the State of New York. Plaintiff brings this Complaint using his initials because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known. His identity will be made known to Defendant, at the latest, upon service of the Summons and Complaint.

2. Defendant, Rockefeller University, (hereafter, "RU"), is a private graduate university in New York City. RU operates and controls The Rockefeller University Hospital ("RUH"), also located in New York City. RU is a citizen and resident of the State of New York.

3. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

4. Personal jurisdiction lies over Defendant as it is present and domiciled in the State of New York.

5. Venue of this action lies in New York County as a substantial part of the events or omissions giving rise to the claim occurred in New York County.

Statement of Facts

1. Dr. Archibald was a former professor and senior physician of RU and RUH from the 1940 until 1982. Dr.; Archibald studied childhood growth and sexual maturity. He also treated pediatric patients at RUH who had growth issues in his endocrine clinic.
2. In or about 1963, when W. F. L. was five years old he was brought to RUH by his parents to see Dr. Archibald due to inadequate weight and appetite.
3. Dr. Archibald continued to treat W. F. L. biannually from 1963 to 1968 with the pretext of monitoring W. F. L.'s weight gain and appetite. However, Dr. Archibald used these visits as means to gain access to W. F. L. and sexually assault him.
4. During the first visit, while no one else was present in the examination room, Dr. Archibald instructed W. F. L. to remove his clothing. Dr. Archibald proceeded to take photographs of W. F. L.'s naked body including his genitalia.

5. Dr. Archibald instructed W. F. L. to sit on his lap while naked and held W. F. L. by his waist so that he would not move for approximately five minutes. Dr. Archibald then fondled W. F. L.'s genitalia W. F. L.
6. While fondling W. F. L., Dr. Archibald made it clear to W. F. L. that he wanted him to ejaculate, which he was unable to. The following ten visitations for the next five years were extremely similar, resulting in sexual assault.
7. Finally, at the approximate age of ten, W. F. L. disclosed to his mother that Dr. Archibald took pictures of his penis. Resultantly, W. F. L.'s visitations with Dr. Archibald ceased.

Argues Knowledge and Concealment of Acts of Sexual Abuse by Reginald Archibald

8. At all relevant times RU, through its employees and agents, knew that Dr. Archibald, under its supervision and control, was sexually inappropriate with minor male patients.

9. Upon information and belief, in 1961, the President of RU was made aware of an investigation conducted into Dr. Reginald Archibald by the New York City District Attorney's Office in relation to treatment of two minor patients, prompted by a complaint.

10. Upon information and belief, prior to 1963 various staff members, including nurses were aware of Dr. Archibald's medically unjustified procedures and examination of child patients.

11. Upon information and belief, the physician-in-chief from 1960-1974 received several complaints from patients, family members of patients or staff about Archibald's examinations of patients' genitals.

12. Further, the physician-in-chief knew of Dr. Archibald's medically unjustified practice of taking genital measurements of his minor patients.

13. Despite receiving credible allegations against Dr. Archibald of sexual assault, RU acted to conceal these allegations in an effort to avoid scandal and accountability.

14. Plaintiff was in a zone of foreseeable harm as a male patient of Dr. Archibald.

Nature of Conduct Alleged

15. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

16. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Dr. Archibald, to retain Dr. Archibald as a physician of RUH with unfettered access to children.

COUNT I
NEGLIGENCE

17. Plaintiff W. F. L. repeats and realleges Paragraphs 1 through 16 above.

18. At all material times, RU and Plaintiff were in a special relationship in which RU owed Plaintiff a duty of reasonable care.

19. At all material times, RU and Dr. Archibald were in a special relationship of employer – employee, in which RU owed a duty to control the acts and conduct Dr. Archibald to prevent foreseeable harm.

20. RU owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the RUH and Dr. Archibald, an agent of RU. RU's duties encompassed the retention and supervision of Dr. Archibald and otherwise providing a safe environment for Plaintiff.

21. RU breached these duties by failing to protect the minor W. F. L. from sexual assault and lewd and lascivious acts committed by an agent and employee of RU.

22. At all relevant times, RU knew or in the exercise of reasonable care should have known that Dr. Archibald had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual assault of his young male patients.

23. At all relevant times, it was reasonably foreseeable to RU that Dr. Archibald would commit acts of child sexual abuse or assault on underage male patients.

24. At all relevant times, RU knew or should have known that Dr. Archibald was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/ or protection.

25. With such actual or constructive knowledge, RU provided Dr. Archibald unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

26. At all relevant times, RU created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

27. At all relevant times, RU had inadequate policies and procedures to protect

children it was entrusted to care for and protect, including Plaintiff.

28. As a direct and proximate result of RU's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

29. RU's acts and conduct shows a reckless or willful disregard for the safety and well-being of W. F. L.

WHEREFORE, Plaintiff demands judgment against RU for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury and all issues so triable as a matter of right.

Dated: New York, New York
August 14, 2019

Respectfully submitted,

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